THE HON'BLE MR JUSTICE GODA RAGHURAM

_

WRIT PETITION NO : 11632 of 2006

DATED: 20-06-2006

BETWEEN:

Kakara Krishna Murthy and others

.. Petitioners

And

The Asst. Commissioner of Endowments and another

.. Respondents

THE HON'BLE MR JUSTICE GODA RAGHURAM

–

WRIT PETITION NO : 11632 of 2006

ORAL ORDER:

The petitioners assert that they are cultivating wetland admeasuring Ac.2.11 cents each in Survey No.449 of Pedapudi Village, Pedapudi Mandal, East Godavari District, belonging to the second respondent Devasthanam. They also assert that the lease was in favour of the first petitioner. There is a further assertion that the first petitioner is the Manager of the Hindu undivided family.

It is neither pleaded, urged nor established before this Court that the lease of the lands of the second respondent Devasthanam was granted to the first petitioner as the Manager of the Hindu undivided family. The first petitioner can legitimately be a lessee in his individual capacity, including of Devasthanam Lands. Thus the lease of the Devasthanam wetland of an extent of Ac.8.44 cents in Survey No.449, is to the first petitioner and for a period of three years. The lease having been granted to the first petitioner, he alone is the cultivating tenant within the meaning of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987. Since the land cultivated by the first petitioner is wetland in an extent of Ac.8.44 cents, the first petitioner does not answer the description of a landless poor person in view of the definition of the expression in the explanation to Section 82(2) of the Act. The first petitioner is, therefore, not entitled to any of the benefits as a landless poor person under the legislative dispensation.

The petitioners resisted the auction notice issued by the second respondent on 26.5.2006 proposing auction for grant of leasehold rights of the lands of the second respondent Devesthanam, which are defacto in the cultivation of the first petitioner. The law does not permit grant of any relief to the petitioners in the aforesaid circumstances. What the law does not permit cannot be granted by way of mandamus. There are no merits.

The writ petition is dismissed at the stage of admission, after hearing the learned Government Pleader for Endowments. As and when the auction is held the petitioners are at liberty to participate therein. No costs.

_____

GODA RAGHURAM,J

Dated:20-06-2006

kvrm